IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1670 OF 2006

Brijesh Kumar R.Vishwakarma & ors. — Petitioners
vs.
Mumbai Metropolitan Regional Development Authority & anr. — Respondents

Mr.Anil Singh i/b.Mr.D.R.Shah for the petitiioners.

Ms.Kiran Bagalia for respondent no.1.

Mr.K.R.Belosay, AGP for respondent no.2.

CORAM : F.I.REBELLO &
ANOOP V. MOHTA,JJ.

DATED : 24th November, 2006

P.C.

Rule. Heard forthwith.

2. It was the case for the petitioners that part of the structures were demolished and part not demolished and they are willing to give up their right for rehabilitation if they were allowed to repair the partly demolished structures and use the same. Considering that the issue involved not only the petitioners but all projects taken up for road widening by respondent no.1,

we had directed respondent no.1 to frame a policy.

3. Shri.A.R.Wankhade, Land Estate Manager under powers delegated to him by the Commissioner, MMRDA has now filed an affidavit and enclosed the guidelines dated

14th November 2006. The party affected by such a demolition has to file an affidavit showing the following:

(a) The premises remaining after part demolition is sufficient for him and he is not interested in rehabilitation and resettlement.

(b) He shall not be entitled to rehabilitation and shall not make any claim against MMRDA in respect of the part demolition of his structure in future.

(c) He shall not encroach upon the area outside the remaining structure for any purpose and shall not oppose demolition of the remaining structure if required for a public purpose in future and shall remove the balance structure as and when it is required for any public purpose.

(d) The retention of the part structures would not amount to regularization of unauthorised structures."

4. The said policy guidelines are taken on record.

Respondents will be bound by the said guidelines.

5. If the petitioners are entitled to the benefit of the said guidelines, petitioners to file an affidavit in terms of the guidelines and it is for the respondents to decide the same within a period of four weeks from today. This will also apply to any other cases where policy applies. Those cases will be disposed of within outer limit of four weeks from receipt of application/affidavit.

6. In order to enable the petitioners herein to file affidavit, no action for demolition will be taken for a period of four weeks and till the decision by the respondents.

7. Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA,J.)